

BEFORE THE BOARD OF REAL ESTATE APPRAISERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC
amendment of ARM 24.207.401,) HEARING ON PROPOSED
and the adoption of NEW RULES) AMENDMENT AND ADOPTION
I and II, pertaining to)
trainee and mentor requirements)

TO: All Concerned Persons

1. On October 21, 2003, at 9:00 a.m., a public hearing will be held in room B-07, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Real Estate Appraisers no later than October 15, 2003, at 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2386; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 831-2305; e-mail dlibsarea@state.mt.us.

3. The rule as proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

24.207.401 FEES (1) through (1)(1) remain the same.
(m) original trainee license 300
(n) trainee renewal fee 300
(2) remains the same.

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-105, 37-54-112, 37-54-201, 37-54-202, 37-54-210, 37-54-211, 37-54-212, 37-54-302, 37-54-310, 37-54-403, ~~37-54-406~~, MCA

REASON: There is reasonable necessity to amend ARM 24.207.401 to implement provisions of Chapter 341, Laws of 2003 (Senate Bill 432), effective October 1, 2003, and to comply with 37-1-134, MCA, which mandates that fees must be commensurate with costs. The review and approval of initial registration and tracking of a mentor, original trainee, and new trainee will require the board compliance officer to review two appraisal reports for compliance with the Uniform Standards of Appraisal Practice (USPAP) for each mentor. Annually, the compliance officer will review two appraisal reports prepared by the trainee for compliance with USPAP. Each review is estimated to take eight hours per report for a total of 16 hours. Additional staff time is required to track the trainee and process applications [16 hours x \$18

(personnel costs) = \$288 + \$12 (processing expenses)]. That totals expenditures of \$300 per trainee, annually.

The Board estimates that approximately 48 individuals are currently in training to become real estate appraisers, and that it may take up to two years to complete their training. As the current 48 trainees complete training, the Board estimates that there will be approximately 12 new trainees being licensed annually, starting in fiscal year 2005. The proposed fees will affect an estimated 24 persons annually, beginning in fiscal year 2006. The total estimated annual fiscal impact to those 24 individual trainees is \$7,200.

4. The proposed new rules provide as follows:

NEW RULE I TRAINEE REQUIREMENTS (1) A trainee shall:

(a) be 18 years of age or older;
(b) make application to the board on forms approved by the board;
(c) have completed 40 hours of approved qualifying education in the principals of real estate appraisal prior to making application; and

(d) complete an additional 50 hours of approved qualifying education within the next 12 months or the next renewal, whichever is greater. Fifteen hours must be in the area of the Uniform Standards of Professional Appraisal Practice (USPAP).

(2) For the purposes of ARM 24.207.503, appraisal experience obtained after October 1, 2003, will be credited only if earned by a licensed trainee. A licensed trainee may claim credit for appraisal experience obtained between October 1, 2000, and September 30, 2003, if the appraisal experience was obtained within the 36 months immediately prior to the individual's licensure as a trainee.

(3) A trainee shall be under the direct supervision of at least one appraiser mentor. A trainee may have more than one mentor.

(4) A trainee shall maintain an activity log for each mentor on forms approved by the board for qualifying activity completed in accordance with USPAP.

(5) A trainee license must be renewed by March 31 of each expiration year following the trainee's original year of licensure. A trainee license may be renewed a total of four times, but may be extended by the board for cause.

(6) All qualifying appraisals performed by a trainee must meet USPAP standards.

(7) After the original trainee licensing year, a trainee shall meet continuing education requirements established by rule. Qualifying education may be used to meet the continuing education requirements.

(8) A trainee shall submit two copies of two different appraisal reports the trainee completed in accordance with USPAP with the trainee's annual renewal.

(9) A trainee may not perform qualifying experience without a mentor.

(10) A trainee shall perform qualifying experience within 100 miles of the mentor's business address.

(11) A trainee may not perform qualifying experience outside the scope of the mentor's licensure or certification.

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-105, 37-54-201, 37-54-202, 37-54-303, 37-54-403, MCA

REASON: It is reasonably necessary for the Board to adopt these proposed trainee requirements to implement the provisions of Chapter 341, Laws of 2003 (Senate Bill 432), effective October 1, 2003. An applicant for an appraisal trainee must be of majority age in order to enter into employment contracts and be held accountable for the care of property in their possession. An applicant must have a minimum amount of education to carry out the duties and responsibilities of an appraisal trainee and to continue the education portion of license advancement while obtaining practical experience as a trainee. With the implementation of SB 432, trainees must be enrolled in the training program to receive credit for any appraisal activity they complete. This ensures that they are receiving quality mentoring by at least one competent mentor, but they may have more than one approved mentor to enhance the scope and breadth of their outlooks and approaches to the appraisal practice. Appraisal activity must be logged to keep track of hours of experience toward completing advanced licensing and to track who was supervising during a particular assignment. All trainee appraisals must meet Uniform Standards of Professional Appraisal Practice guidelines. Trainees are limited to five years as a trainee. The intent of the trainee program is to offer a supervised program to obtain necessary experience for an advanced appraisal license but not to serve as a means to practice the appraisal profession indefinitely. Trainees will be required to submit two appraisal reports annually for review, thus ensuring that the trainee is obtaining proper instruction from their mentor(s) and prevent inaccurate appraisal practices while in the trainee program. It is imperative that the Board be apprised of the trainee's supervision to ensure it is being done under an approved mentor and ensures that proper requirements and standards are maintained. The Board has established a minimum level of supervision required by a mentor. A mentor must accompany their trainee on a minimum number of property inspections to instruct the trainee on the proper methods of inspection, what to look for and how to record that information in compliance with Uniform Standards of Professional Appraisal Practice. A trainee may only assist in completing assignments of their mentor that are within the scope of the mentor's license. This ensures that the trainee is instructed on proper completion requirements of various

property types and works within the definition of various levels of certification within the appraisal profession.

NEW RULE II MENTOR REQUIREMENTS (1) Beginning October 1, 2003, a mentor for a licensed real estate appraisal trainee shall:

(a) be a certified residential or certified general appraiser. A licensed appraiser mentoring a trainee prior to October 1, 2003, may continue to mentor the licensed trainee for not more than 18 months;

(b) be approved by the board prior to beginning mentoring duties;

(i) a mentor shall make application on forms approved by the board and submit two appraisal reports prepared by the mentor in accordance with USPAP standards;

(ii) failure to prepare appraisal reports in compliance with USPAP can result in denial of mentor status;

(c) have a minimum of two years licensed or certified appraisal experience;

(d) be in good standing with the board;

(e) certify the mentor's agreement to provide on-going supervision of the licensed trainee;

(f) be responsible for and must provide direct supervision of all appraisal work performed by the trainee in accordance with USPAP standards;

(g) review and sign the experience log of their trainee, certifying its accuracy;

(h) inspect the first 100 properties with each trainee under the mentor's supervision; and

(i) be limited to mentoring a total of two trainees at any particular time.

(2) A mentor must notify the board within 10 days when mentoring of a trainee has terminated.

AUTH: 37-1-131, 37-54-105, MCA

IMP: 37-1-131, 37-54-105, 37-54-201, 37-54-202, 37-54-301, 37-54-403, 37-54-411, 37-54-416, MCA

REASON: It is reasonably necessary, for the purposes of implementing the provisions of SB 432, to adopt a rule defining qualifications and responsibilities of a mentor in the training of an appraisal trainee. Mentors must have an advanced level of licensing and expertise. This rule provides for a period of time during which current mentors may achieve that advanced level. Mentors must have a minimum of two years experience as a licensed or certified appraiser to ensure adequate knowledge of professional requirements. It is important that mentors have their work product reviewed by the Board to ensure compliance with Uniform Standards of Professional Appraisal Practice (USPAP). If a mentor is unable to meet USPAP standards, it is unlikely they will be able to teach a trainee how to comply. Mentors must be willing and must agree to invest the time, money and energy needed to mentor a trainee. A mentor must agree to the

supervision requirements and be willing to be held accountable for the performance of their trainee. Mentors are limited in the number of trainees they can mentor as it is a very demanding act and requires a great deal of time and attention.

5. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Real Estate Appraisers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsarea@state.mt.us and must be received no later than 5:00 p.m., October 28, 2003.

6. An electronic copy of this Notice of Public Hearing is available through the department's site on the World Wide Web at <http://discoveringmontana.com/dli/bsd> under the Board of Real Estate Appraisers rule notice section. The department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the comment forum do not excuse late submission of comments.

7. The Board of Real Estate Appraisers maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the board. Persons who wish to have their names added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Real Estate Appraisers administrative rulemaking proceedings. Such written requests may be mailed or delivered to the Board of Real Estate Appraisers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsarea@state.mt.us or may be made by completing a request form at any rules hearing held by the agency.

8. The Board of Real Estate Appraisers will meet on December 1, 2003, during the Board's regular meeting in Helena, Montana at the Board's offices, 301 South Park Avenue, Helena, Montana, to consider the comments made by the public, the proposed responses to those comments, and take final action on the proposed amendments and New Rules. Members of the public are welcome to attend the meeting and listen to the Board's deliberations.

9. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled.

10. Lon Mitchell, attorney, has been designated to preside over and conduct this hearing.

BOARD OF REAL ESTATE APPRAISERS
TIMOTHY MOORE, CHAIRMAN

/s/ WENDY J. KEATING
Wendy J. Keating, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

Certified to the Secretary of State September 15, 2003.